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OFFICE OF THE JUDGE ADVOCATE GENERAL
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IN REPLY REFER TO

JAGINST 5800.7E CH-1
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JAG INSTRUCTION 5800.7E CHANGE TRANSMITTAL 1

From: Judge Advocate General

Subj: MANUAL OF THE JUDGE ADVOCATE GENERAL

Ref: (a) JAGINST 5219.1F, Publication of the Manual of the
Judge Advocate General (JAGMAN)

Encl: (1) Summary of Changes
(2) Revised Chapter VII

1. Purpose. To transmit Change 1 to the Manual of the Judge Advocate General (JAGMAN) in accordance with reference (a).

2. Information. Enclosure (1) contains a summary of the pertinent JAGMAN changes.

3. Action. Insert new pages contained within enclosure (2) and remove superseded pages.

4. Availability. The JAGMAN is part of the Department of the Navy (DON) directives system and is available on the DON directives website at <http://doni.daps.dla.mil>. The JAGMAN may also be accessed and downloaded from Navy Knowledge Online (<https://wwwa.nko.navy.mil>) at the Judge Advocate General's Corps community portal, and on the official Judge Advocate General's Corps website at <http://www.jag.navy.mil>.


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Distribution:
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JAGINST 5800.7E CHANGE TRANSMITTAL 1

SUMMARY OF JAG MANUAL CHANGES

1. Section 0706a. Clarifies eligibility for legal assistance to family members, or legally appointed fiduciaries of incapacitated personnel; delineates order of legal assistance eligibility for reservists on active duty including eligibility of demobilized reservists for legal assistance that relates to serious wounds, illnesses, or injuries incurred during the period of mobilization.
2. Section 0706b(2). Delineates order of legal assistance eligibility for retired members, providing for priority to retired members entitled to disability compensation or Department of Veterans Affairs compensation ahead of other eligible retired members.
3. Section 0706b(5). Clarifies current policy regarding legal assistance services to family members of mobilizing reservists by adding language to this effect at the end of the paragraph.
4. Section 0706b(6). Adds language cross-referencing section 0706a(2).
5. Section 0706b(8). Expands category of civilians eligible for legal assistance services to cover: (a) Department of Defense (DoD) civilian personnel deploying for at least 30 days to a combat zone, in support of a contingency operation, or aboard a naval vessel, and family members; (b) DoD civilian personnel employed by, serving with, or accompanying the Armed Forces while assigned overseas, and family members; and (c) Non-DoD civilian personnel serving in locations in a foreign country with the Armed Forces while assigned overseas where legal assistance is not reasonably available.
6. Section 0706b(9). Formerly the provision governing eligibility of services to family members accompanying authorized civilian personnel, now incorporated into section 0706b(8)(b); former sections 0706b(10) through (14) have been re-designated as 0706b(9) through (13), respectively.

CHAPTER VII

LEGAL ASSISTANCE

- 0701 SCOPE**
- 0702 SUPERVISION OF LEGAL ASSISTANCE**
- 0703 LEGAL ASSISTANCE PROVIDERS**
- 0704 LEGAL ASSISTANCE ATTORNEYS**
- 0705 NON-LAWYER PERSONNEL**
- 0706 PERSONS ELIGIBLE FOR LEGAL ASSISTANCE**
 - a. Members of the armed forces on active duty for 30 days or more
 - b. Other persons eligible
- 0707 PERSONAL AND PRIVILEGED CHARACTER OF SERVICE**
 - a. In general
 - b. Information requests by commanding officer
- 0708 LEGAL ASSISTANCE SERVICES**
 - a. Standard services
 - b. Other services
- 0709 LIMITATIONS ON SCOPE OF LEGAL ASSISTANCE SERVICES**
 - a. Personal legal matters only
 - b. Advice or assistance in official military matters
 - c. Representation of opposing parties or interests
 - d. Proceedings involving the U.S.
 - e. Telephone inquiries
 - f. Advice to third parties
- 0710 REFERRALS AND FEES**
 - a. Referral to a civilian attorney or law firm
 - b. Prohibition of fees
- 0711 EXPANDED LEGAL ASSISTANCE PROGRAM**
 - a. General
 - b. Eligibility
- 0712 IMMIGRATION AND NATURALIZATION**
 - a. General
 - b. Passports and visas
 - c. Acquiring citizenship
 - d. Assistance

CHAPTER VII

LEGAL ASSISTANCE

0701 SCOPE

a. This chapter provides information concerning the Department of the Navy (DON) legal assistance program. Additional regulations are contained in the Legal Assistance Manual, JAGINST 5801.2 (series), and other related directives.

b. The DON legal assistance program provides free attorney assistance to service members, their dependents, and other eligible clients regarding personal legal matters. The term "dependents" is used interchangeably with the term "family members" in this manual. "Family members" or "dependents" are those persons identified in the sponsor's service record and/or who possess a valid U.S. Uniformed Services Identification and Privilege Card.

c. The legal assistance program promotes increased readiness of active duty and reserve members of the Naval service, and enhances the morale and quality of life for military personnel, family members, and other eligible clients, through provision of in-office attorney advice, outreach programs, referral services, and vigorous preventive law activities.

d. Legal assistance is not separately funded; the program is authorized, not mandated, by Congress. See 10 U.S.C. § 1044. Accordingly, all legal assistance services are provided subject to availability of staff legal resources.

0702 SUPERVISION OF LEGAL ASSISTANCE

a. The DON legal assistance program is implemented and supervised by the Judge Advocate General (JAG). It is administered in the Navy by the Chief of Naval Operations (CNO) (NO9J) and in the Marine Corps by the Commandant of the Marine Corps (CMC) (Code JA).

b. Commanding officers of Naval Legal Service Offices (NLSO) and Region Legal Service Offices (RLSO), senior staff judge advocates to officers exercising general court-martial convening authority, and Marine Corps judge advocates at Marine Corps installations, designated by the CMC (Code JA), shall oversee the legal assistance practice within their respective chains of command, and have broad authority to ensure that services are provided commensurate with resources available.

0703 LEGAL ASSISTANCE PROVIDERS

Legal assistance is provided at all NLSOs, NLSO Detachments, and NLSO Branch Offices. Legal assistance services may also be available at other legal offices and from Naval and Marine Corps Reserve personnel and units. Marine Corps legal assistance offices are designated by the CMC (Code JA) at certain Marine Corps installations.

0704 LEGAL ASSISTANCE ATTORNEYS

A legal assistance attorney is a judge advocate or civilian attorney authorized by the JAG, or by his designated representatives, including, for Marine Corps personnel, the CMC (Code JA), to perform legal assistance functions. He represents the interests of the individual client concerning personal legal matters.

0705 NON-LAWYER PERSONNEL

Non-lawyer legal officers, legalmen, independent duty legalmen, and legal clerks may assist attorneys, but they may not provide legal advice or provide services that call for the professional judgment of an attorney. Non-lawyer personnel may provide assistance not requiring the attention of an attorney, such as notarizations and the preparation of routine powers of attorney using attorney approved forms.

0706 PERSONS ELIGIBLE FOR LEGAL ASSISTANCE

a. Members of the armed forces on active duty for 30 days or more. Legal assistance is intended primarily for active duty personnel, including Reservists and members of the National Guard on active duty for 30 days or more. Legal assistance may be provided to family members, or legally appointed fiduciaries of personnel incapacitated or otherwise incapable of seeking such assistance personally:

(1) For Reservists on active duty for less than 30 days, see sections 0706b(4) and 0706b(5) except as provided for in the following paragraph.

(2) Members of Reserve components following release from active duty under a call or order to active duty for more than 30 days issued under a mobilization authority, as determined by the Secretary of Defense, for a period of time that begins on the date of the release and is not less than twice the length of the period served on active duty under that call or order to active duty, for legal issues that relate to serious wounds, illnesses, or injuries incurred during the period of mobilization.

b. Other persons eligible. As resources permit, legal assistance may also be provided to the following categories of people in the order listed:

(1) Family members of active duty personnel and of personnel who died while on active duty.

(2) Retired Members:

(a) Retired members entitled to military disability compensation or Department of Veterans Affairs compensation; and

(b) Retired members entitled to retired or retainer pay.

(3) Family members of retired members and family members of deceased retired members.

(4) Reservists on active duty for single periods of 29 days or less

and their family members may be provided legal assistance in emergency cases.

(5) For the purpose of enhancing the readiness of Reserve personnel for mobilization, pre-mobilization legal counseling and assistance may be provided to active duty or inactive Reserve personnel consistent with mobilization readiness needs. Pre-mobilization assistance normally will consist of drafting or updating wills, advance medical directives, and powers of attorney. Other assistance may be provided if it relates to recall or mobilization. Examples of such assistance include advice concerning rights under the Service Members Civil Relief Act (SCRA) or the Uniformed Services Employment and Reemployment Rights Act (USERRA). Pre-mobilization legal assistance services are not authorized for family members with the exception of family members of Reserve personnel with mobilization orders for more than 30 days.

(6) Members of Reserve components, other than those described in section 0706a(2) above, following release from active duty under a call or order to active duty for more than 30 days issued under a mobilization authority, as determined by the Secretary of Defense, for a period of time that begins on the date of the release and is not less than twice the length of the period served on active duty under that call or order to active duty.

(7) Family members of members of the Reserve components listed in subsection (6) above.

(8) Civilian personnel:

(a) Department of Defense (DoD) civilian personnel deploying for at least 30 days to a combat zone, in support of a contingency operation, or aboard a naval vessel may be provided pre-deployment legal assistance services. Legal assistance may also be provided to family members of these civilian personnel, both before and during deployment, on deployment-related matters. All services are to be provided within current means and capabilities. Additionally, legal assistance services are authorized to be provided to civilian personnel and their family members for a reasonable period, but not to exceed 30 days, after he or she returns from deployment to close out ongoing legal assistance matters related to deployment that arose before or during deployment. Eligibility for civilian personnel and their families for legal assistance while overseas is governed by section 0706b(8)(b).

(b) DoD civilian personnel who are U. S. citizens, other than local hire employees, employed by, serving with, or accompanying the Armed Forces of the U.S., when they are assigned to a foreign country or to a vessel or unit of the Armed Forces of the U. S. deployed in excess of 30 days. Family members who accompany DoD civilian personnel authorized under this subsection are also eligible.

(c) Non-DoD civilian personnel employed by the U.S. Government who are U.S. citizens, serving in locations in a foreign country or on a vessel of the Armed Forces of the U.S., where legal assistance from non-military legal assistance providers is not reasonably available. Such legal assistance is generally limited to ministerial services (for example,

notarial services), legal counseling (to include the review and discussion of legal correspondence and documents), legal document preparation (limited to powers of attorney and advanced medical directives (AMDs)), and help with retaining civilian lawyers.

(9) Members of allied forces and their family members in the U. S., serving with the Armed Forces of the U.S.

(10) A 20/20/20 un-remarried former spouse as defined in 10 U.S.C. § 1072.

(11) Spouses, former spouses, and children who are victims of abuse by members losing the right to retired pay under 10 U. S. C. § 1408(h).

(12) Dependents of members separated for dependent abuse consistent with the transitional compensation provisions of 10 U.S.C. § 1059.

(13) Other persons authorized by the Judge Advocate General (JAG).

0707 PERSONAL AND PRIVILEGED CHARACTER OF SERVICE

a. In general. Information and files pertaining to legal assistance clients are private and privileged under law and applicable professional rules and guidelines. Such information and files shall not be disclosed to anyone by the attorney providing legal assistance, except upon the specific permission of the client or when the attorney determines that disclosure is authorized or required by law or applicable rules of professional conduct. Disclosure of such information cannot be authorized or made lawful by order of superior military authority.

b. Information requests by commanding officer. After the formation of an attorney-client relationship, information concerning a service member's appointments or meetings with a legal assistance attorney or legal staff assistant may not be disclosed, unless an exception to the attorney-client privilege applies or the client gives informed consent.

0708 LEGAL ASSISTANCE SERVICES

a. Standard services. Advice or service regarding the following matters are normally available to eligible persons but may be limited due to availability of a qualified attorney or other resources:

(1) Deployment briefings and assistance:

(a) Pre-deployment briefings.

(b) Pre-mobilization briefings.

(c) Demobilization briefings.

(2) Family Law/Domestic Relations:

(a) Divorce, dissolution, annulment counseling, and advice.
(b) Separation agreement, divorce pleadings, counseling, and advice (drafting not required).

(c) Nonsupport/support counseling, advice, and document drafting (service obligations).

(d) Child custody, support, and visitation counseling and advice.

(e) Paternity counseling and advice.

(f) Adoption counseling and advice.

(g) Navy/DoD adoption reimbursement.

(h) Guardianship counseling and advice.

(i) Page 2 dependent designation.

(j) Early return of dependents when assigned overseas.

(k) Military family care plan counseling and advice.

(3) Consumer law:

(a) Bankruptcy counseling and advice.

(b) Credit collection, indebtedness issues counseling, advice, and action to resolve.

(c) Car contracts issues counseling, advice, and action to resolve.

(d) Government indebtedness, involuntary allotment, garnishment issues, counseling, advice, and action to resolve.

(e) Credit report counseling and advice, Federal consumer law statutes counseling and advice.

(f) Consumer fraud/ID theft issues counseling, advice, and action to resolve.

(g) Personal contract review, excluding real estate.

(h) Landlord/tenant issues counseling, advice, and action to resolve.

(4) Estate planning counseling and advice:

(a) Will counseling and advice.

(b) Basic will drafting.

(c) Advanced medical directives, living will counseling, advice

and drafting.

(d) Durable power of attorney counseling, advice and drafting.

(e) Testamentary trust for minors, pre-residuary counseling, advice, and drafting.

(f) Special needs trust counseling and advice.

(g) Service Members Group Life Insurance/insurance counseling, advice, and beneficiary designation.

(h) Other survivor benefits counseling and advice.

(i) Will/ancillary document execution.

(5) Military rights and benefits advice:

(a) Service Members Civil Relief Act counseling, advice, and drafting correspondence.

(b) Uniformed Services Employment and Reemployment Rights Act counseling and advice.

(6) Powers of Attorney counseling, advice and drafting.

(7) Notary services.

(8) Service member immigration and naturalization counseling and advice.

b. Other services. Legal assistance offices may provide additional services not specifically prohibited by regulation if the legal assistance providers are competent to provide such services.

0709 LIMITATIONS ON SCOPE OF LEGAL ASSISTANCE SERVICES

a. Personal legal matters only. Legal assistance is authorized for personal legal affairs only. Legal advice and assistance will not be provided regarding business ventures or regarding matters that are not of a personal nature.

b. Advice or assistance in official military matters. Legal assistance duties are separate and apart from responsibilities of trial counsel, defense counsel, or others involved in processing courts-martial, nonjudicial punishments, administrative boards or proceedings, and investigations. Members accused or suspected of offenses or conduct that may result in disciplinary or judicial proceedings under the Uniform Code of Military Justice (UCMJ), or processing for administrative discharges, will be referred to a defense counsel.

c. Representation of opposing parties or interests. If two or more eligible persons with conflicting interests seek advice from the same legal

assistance office on the same matter, the party first establishing an attorney-client relationship will be provided representation. The legal assistance office will then follow the guidance contained within JAGINST 5801.2 (series) on referral of the conflicted party(ies) to an alternate source of assistance.

d. Proceedings involving the U.S. Legal assistance attorneys shall not represent or assist an individual in a matter in which the U.S. has a direct and substantial interest, whether or not the Government's position is adverse to that of the individual, except as permitted by JAGINST 5801.2 (series) or other prior and specific authorization of the JAG or his designee, Deputy Assistant Judge Advocate General (DAJAG) (Legal Assistance) (Code 16) or the CMC (Code JA).

e. Telephone inquiries. Legal assistance ordinarily will not be provided over the telephone except in unusual or compelling circumstances.

f. Advice to third parties. The privileged attorney-client relationship requires personal and private communication. Except when the client is unable to communicate adequately, advice or assistance will not be provided through third parties. For example, each will client must be interviewed personally by a legal assistance attorney prior to execution of the will. When command representatives seek information or assistance on behalf of service members, they shall normally be instructed to have the service member obtain a legal assistance appointment. Bona fide requests for command services shall be referred to the judge advocate normally charged with providing advice and assistance to the command concerned.

0710 REFERRALS AND FEES

a. Referral to a civilian attorney or law firm. The legal assistance attorney may determine that the best interests of the client will be served by referring the case to a civilian attorney or law firm. Should referral be necessary, payment of legal fees is the client's responsibility. The Government will not reimburse the individual or pay any expenses associated with the referral.

b. Prohibition of fees. Services provided in the DON legal assistance program are at no cost to eligible personnel. All legal assistance personnel are prohibited from accepting or receiving from eligible clients any fee or compensation other than Government compensation. Reserve personnel not on active duty are prohibited from receiving fees or compensation for the same matters about which they consulted with or advised their legal assistance clients, regardless of the reservist's duty status when the legal assistance was provided.

0711 EXPANDED LEGAL ASSISTANCE PROGRAM

a. General. Under the Expanded Legal Assistance Program (ELAP), as approved by the JAG or his designee, DAJAG (Legal Assistance) or the CMC (Code JA), designated legal assistance attorneys may provide in-court representation to certain categories of clients who cannot afford private attorney fees.

Additional information on ELAP is contained in JAGINST 5801.2 (series).

b. Eligibility. Persons eligible:

- (1) Active duty military personnel in pay grades E3 and below.
- (2) Active duty military personnel in pay grade E4 with family members.
- (3) Family members of personnel in pay grades E-4 and below.
- (4) Other active duty military personnel and their family members who are unable to afford an attorney without substantial financial hardship may be eligible if approved by the JAG or his designee, DAJAG (Legal Assistance) or the CMC (Code JA).
- (5) Service members with cases that involve a significant issue that affects other service members, if approved by the JAG or his designee, DAJAG (Legal Assistance) or the CMC (Code JA).

0712 IMMIGRATION AND NATURALIZATION

a. General. Laws governing immigration are set by Congress and are found in the Immigration and Nationality Act and implementing regulations. The U.S. Citizenship and Immigration Service (USCIS), an agency of the Department of Homeland Security, administers and enforces U.S. immigration laws.

b. Passports and visas. A passport is a document issued by a person's own country to provide identification necessary to leave and return to that country. By itself, a passport does not give the holder permission to enter another country. State Department Consular offices overseas issue visas to aliens wishing to enter the U.S. A visa *permits* travel to U.S. entry points. U.S. immigration officials at the border determine whether holders of visas are properly documented and otherwise eligible to enter the U.S. and for what period of time. Aliens who are U.S. service members do not need visas to enter the U.S.; they need only show their military identification and papers.

c. Acquiring citizenship. The DON has no authority to grant alien members either citizenship or lawful permanent resident status. An alien who has served in the U.S. Armed Forces does not automatically become a citizen. However, the Navy and Marine Corps have implemented programs designed to assist service members in obtaining citizenship through qualifying military service. Navy and Marine Corps legal assistance offices provide complete application preparation advice and support for those qualified members of the Armed Forces that desire to apply for citizenship. This program can also track the status of the application until completion.

d. Assistance. Immigration and Naturalization law and policy is subject to frequent changes. Timely guidance is maintained under "Legal Assistance for Sailors" which can be found in the Personal Development Tab on the NKO home page at <https://www.nko.navy.mil/portal/splash/index.jsp>. For further information and advice, contact:

- (1) In the U.S., the nearest Bureau of Citizenship and Immigration

Services Office.

(2) Overseas, the nearest U.S. Consulate.

(3) Worldwide, the nearest Legal Assistance Officer. For headquarters assistance contact OJAG (Code 16), 202-685-4642 or DSN 325-4642, or Legal Assistance Branch, Marine Corps Judge Advocate Division, 703-614-1266 or DSN 224-1266.